IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON: 22/09/2015

DATED:27 /01/2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.22802 of 2011
and
M.P.No.1 of 2011

1.D.Loganathan

2.D.Devanathan

3.V.Varalakshmi

4.R.Saraswathi

5.M.Revathi

6.P.Shanthi

7.S.Manjula

8.V.Saroja

9.N.Arulselvi

10.N.Rajasekaran

11.R.Geetha

Represented by their General Power of Attorney
E.Sivaprakasam S/o Late.D.Ekambaram
No.33/75, Sait Colony, 2nd Street,
Egmore, Chennai - 600 008.

12.E.Sivaprakasam S/o Late.D.Ekambaram
No.33/75, Sait Colony, 2nd Street,
Egmore, Chennai - 600 008. ... Petitioners

Vs.

1.The Principal Commissioner and
Commissioner of Land Reforms, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner of
Urban Land Ceiling,
Poonamallee,
Chennai.

3.G.Elumalai ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus, directing the 1st and 2nd respondents to declare that all the proceedings initiated under Tamil Nadu Urban (Ceiling and Regulation) Act, 1978 in respect of the property measuring 8 cents comprised in Survey No.186, of Menambedu Village, Ambattur Taluk, Tiruvallur District have abatted on the promulgation of Tamil Nadu Urban (Ceiling and Regulation) Repeal Act, 20/1999 as no notice, no compensation was given to the petitioners and no effective possession of the said property was taken over and to further declare that the petitioners are the owners of the above said property based on the representations dated 16.08.2010 and 08.04.2011 respectively.

For Petitioner s: Mr.K.Doraisamy, Senior counsel
for Mr.N.Kolandaivelu

For Respondents: Mr.Dig Vijayapandian
Special Government Pleader (for R1 & R2)
for Mr.P.Karthikeyan,
Government Advocate

Mr.H.Adaikala Arockiyaraj (for R3)

O R D E R

The short facts of the case are as follows:-

The petitioners had submitted that Late.Duraisamy Reddiar was the father of the 1st to 4th petitioners and grand father of 5th to 12th petitioners. Late.Duraisamy Reddiar had purchased agricultural land measuring an extent of 17 cents comprised in Survey No.186 of Menambedu Village, Ambattur Taluk, Thiruvallur District along with other properties from Lakshmaya Chetty and Lakshmammal through registered Sale Deed No.2046/1962 registered on the file of Sub Registrar Office, Sembium. The petitioners had further submitted that Duraisamy Reddiar died on 04.12.1962 and his wife D.Annammal died on 06.01.2006 leaving behind him the following surviving legal heirs.

i. D.Ekambaram - Son (Died)
ii. D.Natarajan - Son (Died)
iii. D.Loganathan - Son
iv. D.Devanathan - Son
v. D.Varalakshmi - Daughter
vi. D.Saraswathi - Daughter

2.The petitioners had further submitted that D.Ekambaram father of the 12th petitioner died on 21.12.1990 leaving behind him the following persons as his surviving legal heirs.

i. E.Rukmani - Wife
ii. E.Sivaprakasam - Son
iii. Revathy - Daughter
iv. Shanthi - Daughter
v. Manjula - Daughter
vi. Saroja - Daughter

3.The petitioners had further submitted that Natarajan, father of the 5th to 11th petitioners herein died on 03.06.2003 leaving behind him the following persons as his surviving legal heirs.

i. Rojambal - Wife
ii. Rajasekar - Son
iii. ArulSelvi - Daughter
iv. Geetha - Daughter

4.The petitioners had further submitted that out of 17 cents in survey No.186 of Menambedu Village, Ambattur Taluk, Thiruvallur District, 9 cents were acquired by the Government of Tamil Nadu and compensation was also paid to the legal heirs of late Duraisamy Reddiar in the year 1991 and as on today only 8 cents are available and the same are been enjoying by the petitioners jointly. The petitioners had further submitted that legal heirs of Duraisamy Reddiar, Ekambaram and Natarajan namely 1st to 11th petitioners executed a power of attorney in favour of 12th petitioner to maintain the remaining 8 cents comprised in Survey No.186, of Menambedu Village, Ambattur Taluk, Tiruvallur District. The petitioners had further submitted that till date the petitioners have been holding the possession of the said property. While such was the position, land grabbers tried to interfere with the peaceful possession and enjoyment of the above said property. Therefore, the petitioners were constrained to lodge a criminal compliant against them on 03.12.2009 and 18.03.2010. At the point of time, the police officials after pursuing the records from the office of the second respondent and other records from the Revenue Department informed that the above said property was declared by the first and second respondents as excess vacant land under the Tamil Nadu Urban (Ceiling and Regulation) Act, 1978 herein after which referred to as "Principal Act". The petitioners had further submitted that the moment they were informed about the land ceiling, they went and searched the documents and found out that the notice under the Principal Act was given to the third respondent erroneously. In fact the above said property does not come under the definition of urban land. In addition, the petitioners have been holding only 8 cents of land jointly, therefore, it cannot be declared as excess land under Principal Act. It is pertinent to say that till date, neither notice was given, nor any compensation was paid nor possession was taken over from the Petitioners as per the Principal Act.

5.The petitioners had further submitted that since the proceedings under the Principal Act were initiated erroneously as against the third respondent, the first and second respondents could not takeover the possession. As a matter of fact, under the land acquisition proceeding, all the notices were served and compensation was paid in respect of 9 cents in the name of the legal heirs of Duraisamy Reddiar whereas when the first and second respondents initiated ULC proceeding in respect of same survey number for the remaining 8 cents, neither any notice nor compensation was given to the legal heirs of Duraisamy Reddiar. The petitioners had further submitted that the possession of 8 cents jointly by the legal heirs of Duraisamy Reddiar, in any event, cannot be declared as excess under the Principal Act, because the possession of extent of the land is very less. The petitioners had further submitted that however in view of the Tamil Nadu Urban (Ceiling and Regulation) Repeal Act, 20/1999 herein after which referred as "Repealed Act", the entire proceedings have become abated and especially when possession was not taken over, the first and second respondents cannot have any lien over the said property. The proceedings initiated under the Principle Act can come to an end only on taking over the possession of the said property. In this case no such possession was taken over and as such the proceedings initiated under the Principal Act are deemed to be pending and in view of the Repealed Act entire proceedings got abated.

6.The petitioners had further submitted that the petitioners preferred representations to the first and second respondents on 16.08.2010 and 08.04.2011 respectively seeking necessary orders to the effect that the proceedings initiated under the Principal Act have become abated and also to declare that the petitioners are the absolute owners of the said property and it did not evoke any response. The petitioners had further submitted that the Constitution Bench of the Hon'ble Apex Court in its judgment reported in JT (2000) Supplementary - 1 SC 295 in Smt.Angoor Devi case held that as possession of the land was not taken, by Repealing Act all proceedings got abated and the said judgment has been consistently followed by this Court. The petitioners had further submitted that in view of the ULC proceedings, the petitioners cannot enjoy the said property in a full fledged manner with the power of Alienation, Mortgage etc., therefore it is highly just and essential to issue a writ of mandamus. Hence, this writ petition is filed.

7.The 12th petitioner also has filed additional affidavit which are as follows:-

The 12th petitioner has submitted that initially land ceiling proceeding was initiated as against third respondent only and the third respondent in order to protect his own lands mentioned their survey No.186 eventhough he was in no way concerned with aforesaid survey number. By showing their survey No.186, the third respondent rescued his lands from the ceiling proceedings. Based on his statement without verifying the title deeds and revenue records, the first and second respondents initiated land ceiling proceedings in respect of survey No.186 presuming as if the third respondent was the owner of the said property. As a matter of fact, they are the absolute owners of the 17 cents in survey No.186 out of which 9 cents were acquired by the land acquisition authorities simultaneously for which compensation was paid to them where as in respect of remaining 8 cents in survey No.186, the first and second respondents did not serve any notice to them, as contemplated under the act and rules. Till date the third respondent has not received compensation from the land ceiling authorities though the land ceiling authorities determined the compensation in the year 2001. The first and second respondents initiated land ceiling proceedings without verifying the title deeds and revenue records presuming as if the third respondent was the owner of the said property. It is very pertinent to note that land acquisition proceeding and land ceiling proceedings were initiated simultaneously.

8.The 12th petitioner had further submitted that on knowing the same Mr.D.Natarajan who belonged to them along with third respondent approached the first and second respondents and before the first and second respondents, the third respondent had categorically stated that the third respondent was in no way connected with survey No.186 and the said mistake was accepted by the first and second respondents also and not withstanding the same, they have not released the land ceiling proceedings. He has further submitted that Mr.D.Natarajan who belonged to them continuously fought with the first and second respondents upto February 2003 and on 12.06.2003 he passed away. Since the actual possession was with them and they do not know the land ceiling proceedings, after the death of Natarajan they have been enjoying the said property jointly. In the year 2009 land grabbers interfered with this property and therefore, they lodged a police complaint in the year 2009 and in the investigation, the police found out the land ceiling proceedings and intimated to them and therefore this writ petition is being filed. He has further submitted that recently they came to know that the land grabbers had obtained patta in respect of the said Survey Number not withstanding actual possession is with them. He has further submitted that since land ceiling proceeding was not initiated against them, possession is with us and the act was repealed, prayer sought for in the writ petition may be allowed.

9.The second respondent has filed a counter statement which are as follows:-

The second respondent has submitted that one Thiru.G.Elumalai son of Govindan, the original owner of the lands in S.Nos.202/1, 6 and 7 totally measuring 2350 Sq. mts of Menambedu Village as per revenue records. The urban land owner did not file the return under Section 7 (1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. Hence, a notice under Section 7(2) of the said Act was sent by Registered Post with Acknowledgment due requesting him to file the return vide S.R.No.16/85, dated 12.08.1985, Menambedu Village by the then Assistant Commissioner (ULT) Ambattur (i.e.) the second respondent herein. It was acknowledged by Thiru.G.Elumalai on 07.09.1985. Even after receiving the notice, he did not file any objection. Hence notice under Section 9(4) with statement under Section 9(1) were issued in S.R.16/1985 Menambedu dated 30.05.1986 calling for objection, if any, against the proposed acquisition of Excess Vacant Land measuring an extent of 1850 Sq. mts. after allowing 500 Sq. mts. as entitlement in S.No.202/1 part of Menambedu Village. The Urban Land Owner's wife Tmt.E.Premavathy, received the said notice on 13.06.1986. On receiving the 9(1) statement and 9(4) notice, the Urban Land Owner appeared for enquiry and gave a statement on 07.04.1987. The Urban Land Owner has stated that he also owns lands in S.No.199/2 (27 Cent) and in S.No.186 (17 Cents) and based on the details of his family members, the urban land owner requested to allow 2000 Sq. mts as entitlement area and also added that a portion of the lands was sold and the lands in S.No.202/1, 202/66 and 202/7 are used for agriculture.

10.The second respondent has further submitted that the lands in S.No.202/1, 202/6, 202/7, 186, 199 of Menambedu Village were inspected by the then Assistant Commissioner (ULT) cum Competent Authority (i.e.) second respondent on 10.06.1988 and found that the lands have been laid out as plots, vacant and forming layout sites. After allowing family entitlement of 2000 m2, orders under Section 9(5) of the said Act were passed in SR.46/86, Menambedu Village dated 13.06.1988 to acquire the Excess Vacant Land of 2150 Sq. Mts. in S.No.186 and 199/2 out of the total extent of 4150 Sq. mts. The orders were sent by RPAD and received by Thiru.G.Elumalai, the Urban Land Owner. The final statement under Section 10(1) of the Act was issued on 14.06.1989 and it was served on Thiru.G.Elumalai, Urban Land Owner on 21.06.1989 by RPAD. Thiru.G.Elumalai filed an appeal under Section 33 of the Act before the Special Commissioner and Commissioner Land Reforms, Chennai-5 the first respondent herein on 27.07.1989 against the 10(1) statement issued on the main grounds that no notice was issued to the urban land owner regarding the family eligibility and it has not been properly calculated and the same was rejected by the then Special Commissioner and Commissioner of Land Reforms in his proceedings J2/34844/89, dated 13.02.1990 as time bared. Subsequently the notification under Section 11(1) was issued on 06.06.1990 and published in Tamil Nadu Government Gazette on 11.07.1990. The notification under Section 11(3) of the Act was issued on 20.08.1990, vesting the land with Government with effect from 26.09.1990 and was published in Tamil Nadu Government Gazette dated 12.09.1990. The notice under Section 11(5) of the Act was issued on 21.09.1990 and it was served on Thiru.G.Elumalai, Urban Land Owner on 23.09.1990. Thiru.G.Elumalai and D.Natarajan had filed an appeal under Section 33 against the notice issued under Section 11(5) of the Act on 04.12.1990 and 05.12.1990 on the main grounds that the lands may be released from the provision of the Act. After due examination, the first respondent rejected it as time bared. While passing order the first respondent has also observed that as per the document No.2046, dated 23.06.1962 filed by Thiru.D.Natarajan, his father has purchased 17 cents in S.No.186 along with other lands, It was also observed that, since action was taken in the name of Thiru.G.Elumalai, Thiru.D.Natarajan was not entitled to file the appeal and hence the appeal was rejected as time bared in his proceedings D.Dis.3778/91/J2 dated 20.05.1991. The possession of the Excess Vacant Land of 350 Sq. mts., 700 Sq. mts. and 1100

Sq. mts., totally measuring 2150 Sq. mts. in S.Nos.202/7A, 186 and 199/2A of Menambedu Village was handed over to the Firka Revenue Inspector, Ambathur on 18.01.1991. Later, the notice under Section 12(7) of the said Act was issued to the Urban Land Owner by the second respondent in R.C.No.1452 of 1991 B2 dated 08.05.1991 and orders under Section 12(6) of the Act was issued on 26.12.2000 which was served by affixture on 03.02.2001 and notice was also sent by RPAD and was served on 07.04.2001 on Tmt.E.Premavathy, Urban Land Owner's wife. The action is being taken to pass the amount payable under Section 12(6) of the Act. After a lapse of more than twenty years this writ petition was filed which is belated and liable to be dismissed.

11.The second respondent has further submitted that Thiru.E.Sivaprakasam, the 12th petitioner has filed the writ petition on behalf of the other 11 petitioners and requested permission to file a single petition. In his case, it is submitted that the possession of the excess vacant land was handed over prior to 16.06.1999 as stated supra. The possession of the excess vacant land was acquired and handed over to the Revenue authorities on 18.01.1991 and the petition is filed after a lapse of 20 years which is a belated one. The 12th petitioner has not disclosed when he was appointed as Power Agent and the writ petition is not maintainable since the case falls under Section 3(1)(a) of the Repeal Act 29/99. He has further submitted that the petitioners have stated that the land in S.No.186 of Menambedu Village measuring 17 Cents was purchased by late.Duraisamy Reddiar / father of the 1st to 4th petitioners and grandfather of 5th to 12th petitioners as per document No.2046/62. The copy of the document was not produced before the second respondent while acquisition proceedings were taken. There was no entry in the Revenue Records also to that effect. It is also submitted that Thiru.G.Elumalai himself has given a statement on 07.04.1987 that he owns 17 cents of land in S.No.186 of Menambedu Village. As per Release deed 1547/73 the brothers and sisters of Thiru.G.Elumalai had released their right over this land. In the release deed it has been shown that the land in S.No.186 measuring 17 cents was purchased as per document No.1538/54, dated 20.08.54 by their father. The petitioners contentions are unacceptable. The respondent after due notice, enquiry, inspection etc., had taken action as per the provisions of the Act and the orders are correct.

12.The second respondent has further submitted that the urban land owner furnished the details of legal heir to the second respondent. After due inspection and enquiry only the second respondent had taken action correctly as per the provisions of the Act. The petition does not have any locus standi and the contentions are put forth as an after thought and is a belated one which deserve no consideration. The contention that the urban land owner had received compensation for the 9 cents of land acquired, are not concerned with the proceedings under the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. Moreover the petitioner is put to strict proof thereof. The petitioners herein have not mentioned the date or document number to this effect. This is as an after thought. The petitioners contention is unacceptable. The petitioners have stated that they are in possession of the said property which is not acceptable as the petitioners are encroachers on the Government land and they will be evicted. The petitioners themselves admit that the police officials informed that the land was declared as excess vacant land under the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. It is further submitted that the land was vested with Government with effect from 26.09.1990 free from all encumbrances as per the Gazette notification under Section 11(3) of the Act. The possession of the excess vacant land was handed over to the Revenue Inspector, Ambathur on 18.01.1991 and necessary changes had also been made in the village accounts. This case falls under Section 3(1)(a) of the Repeal Act 20/99. As such, the contention of the petitioners is not acceptable.

13.The second respondent has further submitted that as the names of the petitioners were not found in the revenue record, no notice could be issued to them. However Thiru.D.Natarajan father of the 9th to 11th petitioners had filed an appeal before the first respondent herein against the acquisition proceedings on 04.12.1990 and the same was rejected by the first respondent in proceedings D.Dis J3/3778/91, dated 20.05.1991. Hence, the petitioners cannot plead ignorance of the proceedings initiated under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act. No further appeal or writ was filed against the orders passed on the appeal petition. The petitioners' filed the writ petition after a delay of more than twenty years more over the petitioners do not have any locus standi to file this writ petition belatedly as the contention in unsustainable. He has further submitted that notices were issued as per the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978 to Thiru.G.Elumalai and were properly served and the appeal filed by Tvl.G.Elumalai and D.Natarajan were also dismissed by the first respondent as per the provisions of the Act. The possession of the excess vacant land was taken and handed over to the Revenue Inspector, Ambathur on 18.01.1991 and this case falls under Section 3(1)(a) of the Repeal Act 20/99. He has further submitted that as Thiru.G.Elumalai was found to be the owner of the land, notices were issued to him and the land in S.No.186 of Menambedu Village was acquired and order have also been passed for the amount payable under Section 12 of the Act. As such, there is no pending action to acquire the land. The petitioners contentions are false.

14.The second respondent has further submitted that the possession of the excess vacant land was handed over to the Revenue Inspector, Ambathur on 18.01.1991 well before the repeal of the Act and the action taken is saved by Section 3(1)(a) of the Tamil Nadu Urban Land (Ceiling and Regulation) Repeal Act 1999. He has further submitted that Thiru.G.Elumalai has admitted that he is the owner of the land in S.No.186 of Menambedu Village also. The urban land owner was served with notices at each and every stage of acquisition. The urban land owner has exhausted the statutory remedies available under the Act and filed appeal twice before the Special Commissioner and Commissioner, Land Reforms i.e. the first respondent herein which were rejected as time bared. As per the records available Thiru.G.Elumalai was the owner of the land as per release deed 1547/1975. In the release deed it was mentioned that the land in S.No.186 measuring 13 cents was purchased by Thiru.Govinda Mudaliar, father of Elumalai as per document No.1538/54 dated 20.08.1954 from Thiru.Lakshmiah Chetty and another, Thiru.D.Natarajan father of the 9th to 11th petitioners had filed an appeal before the first respondent herein on 04.12.1990 and the same was rejected in his proceedings D.Dis.J2/3778/91, dated 20.05.1991. No further appeal or writ was filed till 2011. The petitioners claim is an after thought as the possession of the excess vacant land was handed over to the Revenue Inspector, Ambathur on 18.01.1991. The present writ petition is filed after a long delay of more than 20 years which is not sustainable as per law. He has further submitted that the following excess vacant land was acquired in this case,

S.No.	Extent (Sq.mts)
186	700
199/2A	1100
202/7A	350

	2150

15.The petitioners' objection to the acquisition of the excess land pertaining to S.No.186 is unacceptable since the proceedings covered all the above survey numbers owned by the urban land owner. If the writ petition is allowed the other adjacent lands acquired measuring 1450 Sq. mts. will also be affected and will go out of the clutches of the Act which will be a great loss to Government. In a similar case this Court has in its judgment delivered on 02.11.2009 in W.P.No.11334 of 206 filed before this Court by one Thiru.R.R.Nadham -Vs- State of Tamil Nadu represented by the Secretary to Government, Revenue Department observed that

> "... The authorities had followed every procedure before taking possession of the land, which cannot, at any stage, be found fault with. In the given situation, the possession of the petitioner, if any, has to be treated only as an encroachment on the Government land.
>
> Section 4 of the Repeal Act cannot be made applicable to this case, the reason being, no proceedings were pending immediately before the commencement of the Act, before any Court, Tribunal or any authority. Therefore, the possession, which was taken by the authorities way back on 19.01.1984, had become final. As such, there shall not be any abatement of proceedings, as contemplated under the said proviso".

It is therefore prayed that this Court may be pleased to dismiss the above writ petition.

16.The second respondent also filed additional counter statement which are as follows:-

The second respondent has submitted that one Thiru.G.Elumalai son of Govindan was the original owner of the lands in S.Nos.202/1, 6 and 7 totally measuring 2350 Sq. mts. of Menambedu Village as per revenue records. The urban land owner did not file the return under Section 7(1) of the Tamil Nadu Urban Land (Ceiling and Regulation) Act 1978. Hence, a notice under Section 7(2) of the said Act was sent by Registered Post with acknowledgment due requesting him to file the return vide S.R.No.16/85, dated 12.08.1985, Menambedu Village by the then Assistant Commissioner (ULT) Ambattur (i.e.) the second respondent herein. It was acknowledged by Thiru.G.Elumalai on 07.09.1985. Even after receiving the notice, he did not file any objection. Hence, notice under Section 9(4) with statement under Section 9(1) were issued in S.R.16/85 Menambedu dated 30.05.1986 calling for objection, if any, against the proposed acquisition of Excess Vacant Land measuring an extent of 1850 Sq.

mts. after allowing 500 Sq. mts. as entitlement in S.No.202/1 part of Menambedu Village. The Urban Land Owner's wife Tmt.E.Premavathy, received the said notice on 13.06.1986. On receiving the 9(1) statement and 9(4) notice, the Urban Land Owner appeared for enquiry and gave a statement on 07.04.1987. The Urban Land Owner has stated that he also owns lands in S.No.199/2 (27 Cent) and in S.No.186 (17 Cents) and based on the details of his family members, the urban land owner requested to allow 2000 Sq. mts. as entitlement area and also added that a portion of the lands was sold and the lands in S.No.202/1, 202/6 and 202/7 are used for agriculture.

17.The second respondent has further submitted that the lands in S.No.202/1, 202/6, 202/7, 186, 199 of Menambedu Village were inspected by the then Assistant Commissioner (ULT) cum Competent Authority (i.e.) second respondent on 10.06.1988 and found that the lands have been laid out as plots, vacant and forming layout sites. After allowing family entitlement of 2000 m2, orders under Section 9(5) of the said Act were passed in SR.46/86, Menambedu Village dated 13.06.1988 to acquire the Excess Vacant Land of 2150 Sq. mts. in S.No.186 and 199/2 out of the total extent of 4150 Sq. mts. The orders were sent by RPAD and received by Thiru.G.Elumalai, the Urban Land Owner. The final Statement under Section 10(1) of the Act was issued on 14.06.1989 and it was served on Thiru.G.Elumalai, Urban Land Owner on 21.06.1989 by RPAD. Thiru.G.Elumalai filed an appeal under Section 33 of the Act before the Special Commissioner and Commissioner Land Reforms, Chennai-5 the first respondent herein on 27.07.1989 against the 10(1) statement issued on the main grounds that no notice was issued to the urban land owner regarding the family eligibility and it has not been properly calculated and the same was rejected by the then Special Commissioner and Commissioner of Land Reforms in his proceedings J2/34844/89, dated 13.02.1990 as time bared. Subsequently the notification under Section 11(1) was issued on 06.06.1990 and published in Tamil Nadu Government Gazette on 11.07.1990. The notification under Section 11(3) of the Act was issued on 20.08.1990, vesting the land with Government with effect from 26.09.1990 and was published in Tamil Nadu Government Gazette dated 12.09.1990. The notice under Section 11(5) of the Act was issued on 21.09.1990 and it was served on Thiru.G.Elumalai, Urban Land Owner on 23.09.1990. Thiru.G.Elumalai and D.Natarajan had filed an appeal under Section 33 against the notice issued under Section 11(5) of the Act on 04.12.1990 and 05.12.1990 on the main grounds that the lands may be released from the provisions of the Act. After due examination, the first respondent rejected the appeal as time bared. While passing order the first respondent has also observed that as per the document No.2046, dated 23.06.1962 filed by Thiru.D.Natarajan, his father has purchased 17 cents in S.No.186 along with other lands it was also observed that, since action was taken in the name of Thiru.G.Elumalai, Thiru.D.Natarajan was not entitled to file the appeal, hence the appeal was rejected as time bared in his proceedings D.Dis.3778/91/J2 dated 20.05.1991. The possession of the Excess Vacant Land of 350 Sq. mts., 700 Sq. mts., and 1100 Sq. mts., totally measuring 2150 Sq. mts. in S.Nos.202/7A, 186 and 199/2A of Menambedu Village was handed over to the Firka Revenue Inspector, Ambathur on 18.01.1991. Later, the notice under Section 12(7) of the said Act was issued to the Urban Land Owner by the second respondent in R.C.No.1452/91 B2 dated 08.05.1991 and orders under Section 12(6) of the Act was issued on 26.12.2000 which was served by affixture on 03.02.2001 and notice was also sent by RPAD and was served on 07.04.2001 on Tmt.E.Premavathy, Urban Land Owner's wife. The action is being taken to pass the amount payable under Section 12 (6) of the Act. After a lapse of more than twenty years this writ petition has been filed which is belated and is liable to be dismissed.

18.The second respondent has further submitted that Thiru.E.Sivaprakasam, the 12th petitioner has filed the writ petition on behalf of the other 11 petitioners and requested permission to file a single writ petition. The possession of the excess vacant land was handed over to the Revenue authorities on 18.01.1991 and the petition has been filed after a lapse of 20 years which is a belated one. The 12th petitioner has not disclosed when he was appointed as Power Agent. He has further submitted that Thiru.D.Loganathan and 11 others filed the writ petition in W.P.No.22802 of 2011 before this Court. The counter affidavit in this case was already filed. Now the petitioners have filed an additional affidavit. He has further submitted that action was taken under the provisions of the Tamil Nadu Urban Land Ceiling and Regulation Act 1978 as per Revenue Records. The land stood registered in the name of Thiru.G.Elumalai as patta No.138 in the Revenue Records. The land in S.No.186 of Menambdu Village was purchased by Thiru.Govinda Reddiar, father of Thiru.G.Elumalai as per document No.1538 of 1954. Thiru.G.Elumalai himself has given a statement on 07.04.1987 that he owns 17 cents of land in S.No.186 of Menambedu Village. Also, the legal heirs of Thiru.Govinda Reddiar had released the land in favour of Thiru.G.Elumalai as per Document No.1547/1973. A copy of the release deed was taken while acquisition proceedings were taken. The excess vacant land was acquired in this survey number along with other survey numbers owned by Thiru.G.Elumalai.

19.The second respondent has further submitted that the appeal filed by Mr.D.Natarajan was rejected by the first respondent on 20.05.1991 in proceedings J2/3778/1991. But Thiru.D.Natarajan has not taken any further steps to file a revision or writ petition for the past 20 years. He has further submitted that the contention that Mr.D.Natarajan fought continuously is baseless. The contention of the petitioners that they were enjoying the property is also not acceptable. The land was acquired as excess vacant land and possession of the land handed over to Revenue Authorities on 18.01.1991. He has further submitted that the land was acquired under the provisions of the Tamil Nadu Urban Land Ceiling and Regulation Act 1978 from the owner as per Revenue Records. The contention that the land is under the possession of the petitioners is not acceptable as the land had been sold to various persons. It is further submitted that the following excess vacant land was acquired in this case,

S.No.	Extent (Sq.mts)
186	700
199/2A	1100
202/7A	350

	2150

The petitioners objection is to the acquisition of the excess land pertaining to S.No.186 only. If the writ petition is allowed the other adjacent lands acquired measuring 1450 Sq. mts. will also be affected and will go out of the clutches of the Act which will be a great loss to Government. In the above circumstances, it is submitted that the petition is liable to be dismissed as devoid of merit and latches of delay. It is therefore prayed that this Court may be pleased to dismiss the above writ petition.

20.The third respondent / Mr.G.Elumalai filed a counter statement which are as follows:-

The third respondent has submitted that recently he has been served the lawyer's notice along with relevant papers. In the said writ petition, the petitioners are claiming ownership over 8 cents comprised in Survey No.186, of Menambedu Village, Ambattur Taluk, Thiruvallur District. He has further submitted that he is not the owner of 17 cents comprised in Survey No.186 of Menambedu Village, Ambattur Taluk, Thiruvallur District. In the appeal preferred before the Commissioner for land reforms, he has categorically stated that 8 cents comprised in Survey No.186 of Menambedu Village, Ambattur Taluk, Thiruvallur District was not belonging to him and it belongs to one Duraisamy Reddiar through whom Mr.D.Natarajan claims ownership. He has further submitted that he has not received any compensation from the land acquisition authorities while acquiring 9 cents out of 17 cents comprised in Survey No.186 of Menambedu Village, Ambattur Taluk, Thiruvallur District as he is not the owner. In addition, revenue records do not contain his name in respect of the said property.

21.The third respondent has further submitted that revenue records contain the name of Duraisamy Reddiar and therefore, his legal heirs were given compensation by the land acquisition authorities for the 9 cents already acquired for expansion of highways. He has further submitted that notwithstanding that he has categorically stated that 8 cents comprised in Survey No.186 of Menambedu Village, Ambattur Taluk, Thiruvallur District did not belong to him, the Commissioner for Land Reforms failed to take appropriate steps to rectify the mistake committed by them. He has further submitted that even though proceeding was erroneously initiated in his name in respect of the aforesaid property, he has neither received any compensation from the land ceiling authorities nor handed over the possession of the aforesaid property. He has further submitted that from the beginning till date the legal heirs of Duraisamy Reddiar have been holding the possession of the aforesaid property and he has nothing to do with the same. For the reasons stated above, it is humbly prayed that this Court may be pleased to record the above said facts and appropriate orders may be passed.

22.The learned senior counsel Mr.K.Doraisamy appearing for the petitioner submits that the father of the petitioners 1 to 4 and grandfather of the petitioners 5 to 12, namely Late.Duraisamy Reddiar had purchased an agricultural land comprised in Survey No.186, situated at Menambedu Village, to an extent of 17 cents, along with other properties, under a registered sale deed in the year 1962. The said Duraisamy Reddiar expired on 06.01.2006, leaving behind him, his 4 sons and 2 daughters. Subsequently, 2 sons of Duraisamy Reddiar also expired. Therefore, their legal heirs have been impleaded as necessary parties.

23.The highly competent senior counsel further submits that out of the 17 cents, 9 cents were acquired by the Government of Tamil Nadu and compensation also was paid to the land owners in the year 1991. The rest of the 8 cents have been occupied by the petitioner and he is enjoying the same jointly. Under the circumstances, the land grabbers attempted to interfere with the peaceful possession of the petitioner. Hence, the petitioners have levelled a criminal case against the land grabbers on 03.12.2009 and 18.03.2010 before the competent police officer, since the land grabbers attempted to make a wrong entry into their property. The police officials had conducted an enquiry after scrutinising relevant records and the petitioners were informed that the subject lands have been acquired by the 1st and 2nd respondents as excess vacant land under the Tamil Nadu Urban Land Ceiling Act.

24.Knowing the same, the petitioners rushed to the first and second respondents, wherein they found that the respondents 1 and 2 have issued notice to the third respondent under the Tamil Nadu Urban Land Ceiling Act. Further, the petitioners have jointly occupied the land to an extent of 8 cents. Therefore, the petitioners do not have excess lands. Therefore, the acquisition proceedings under the Act is not appropriate. Further, no notice was issued to the land owners and compensation also was not paid to them. The possession also had not been taken by the Government. Actually, the second respondent had initiated land acquisition proceedings under the said Act and notices were served and subsequently compensation was paid in respect of 9 cents alone. Therefore, the subject matter of the lands remains with the petitioners. As such, the first and second respondents cannot declare that the subject lands is an excess one and as of now, the petitioners are in possession. The very competent senior counsel further submits that the Repeal Act came into force in the year 1999. As such, the entire acquisition proceedings have been lapsed since the petitioners are in possession and have not received any compensation.

25.Therefore, the petitioners made representations to the respondents. Further, the Hon'ble Top Court, in its Judgment reported in JT (2000) Supplementary - 1 SC 295 in Smt.Angoor Devi's case held that as possession of the land was not taken, by Repeal Act, all proceedings got abated. Accordingly, the petitioners are entitled to receive relief. Further, the second respondent had initiated the land acquisition proceedings against the third respondent, who is in no way connected with the said property. As per the parent documents i.e. sale deed, which had been executed in favour of Mr.Duraisamy Reddiar in the year 1992, the petitioners are absolute owner of the subject matter of lands. The petitioners have not received any notices before acquirement of the lands and also have not received any compensation. Hence, the learned senior counsel entreats the Court to allow the above writ petition.

26.The very competent Special Government Pleader, Mr.Dig Vijayapandian, argued on behalf of the learned Government Advocate Mr.P.Karthikeyan, who is the counsel on record for the first and second respondents who had also assisted the learned Special Government Pleader. The highly competent Special Government Pleader has submitted that the third respondent herein is the original owner of the lands comprised in Survey Nos.202/1, 6 and 7, situated at Menambedu Village to an extent of 2350 sq. metres as per revenue records. The second respondent had issued notices under the Tamil Nadu Urban Land Ceiling Act to the third respondent herein. The same was acknowledged by the third respondent on 07.09.1986. Subsequently, all legal formalities have been observed and the excess vacant land measuring an extent of 1850 sq. metres was acquired after allowing 500 sq. metres as entitlement. Compensation amount also has been paid to the land owners. The said proceedings have been completed in the year 1987 itself.

27.The very competent Special Government Pleader has further submitted that the second respondent inspected the land on 10.06.1988, wherein he found that the subject lands have been laid out as plots. Subsequently, final statement was served on 14.06.1989. Against the said order, the third respondent has filed an administrative appeal before the first respondent. The same was rejected on merits. Subsequently, the notification was issued under Section 11(1) of the Act and the same was published in the Tamil Nadu Government Gazette. The same has been effected. The petitioners contention also was considered by the first respondent and then only the department appeal was rejected. After acquiring the said land, the same was handed over to the revenue authorities on 08.01.1991. Now, the above writ petition has been filed after a lapse of 20 years. As such, the writ petition is not maintainable. Hence, the very competent counsel entreats the Court to dismiss the above writ petition.

28.The learned counsel Mr.H.Adaikala Arokyaraj appearing for the third respondent has submitted that the petitioner is not the owner of 17 cents comprised in Survey No.186 at Menambedu Village. The same was openly stated before the first respondent, wherein the appeal proceedings were enquired pertaining to the said property. The revenue records also were not in the name of the third respondent. Further, the third respondent has not received any compensation and the respondents 1 and 2 have not taken the subject lands from the third respondent. Hence, the very competent counsel entreats the Court to pass orders on merits.

29.On considering the facts and circumstances of the case and arguments advanced by the highly competent counsels on all sides and on perusing the typed set of papers, it is seen that the respondents 1 and 2 have initiated acquisition proceedings pertaining to the vacant lands comprised in Survey Nos.201/1, 202/6, 202/7, 186 and 189. The acquisition proceedings had been initiated in the year 1985 and the same was completed in the year 1990 after observing all legal formalities. Further, the acquired lands had been handed over to the revenue authorities by the second respondent on 18.01.1991. The said observations had been collected from the Government records, maintained by the first and second respondents herein, which are authenticated records / public records. Further, the above writ petition has been filed after a lapse of 21 years i.e. at a very belated stage. Therefore, the above writ petition does not generate much force to allow it. Hence, it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/
Sub Asst. Registrar

vs

To

1.The Principal Commissioner and
Commissioner of Land Reforms, Chepauk,
Chennai - 600 005.

2.The Assistant Commissioner of
Urban Land Ceiling,
Poonamallee, Chennai.

1 cc to Mr.N. Koalandaivelu, Advocate, Sr. 5232

W.P.No.22802 of 2011 &
M.P.No.1 of 2011

VD (CO)
kk 23/2